

RESOLUTION NO. 2013 – 09

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY
APPROVING AND RATIFYING THE TRANSFER OF THE HOUSING FUNCTIONS, ASSETS
AND OBLIGATIONS FROM THE SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY
TO THE HOUSING AUTHORITY OF THE CITY OF NATIONAL CITY

WHEREAS, the City Council of the City of National City established the Redevelopment Agency of the City of National City (the "Agency") by Ordinance No. 1164, dated April 11, 1967; and

WHEREAS, the City Council of the City of National City established the Housing Authority of the City of National City (the "Authority") by Ordinance No. 1484, dated October 14, 1975; and

WHEREAS, the City Council of the City of National City established the Community Development Commission of the City of National City (the "CDC") by Ordinance No. 1484, dated October 14, 1975, and vested the CDC with all of the powers, duties and responsibilities of both the Agency and the Authority, among other matters, for the purpose of enabling the CDC to operate and govern the Agency and the Authority under a single board and as a single operating entity; and

WHEREAS, pursuant to Assembly Bill No. ABx1 26 (2011-2012 1st Ex. Sess.) signed by the California Governor on June 28, 2011 ("AB 26"), as modified by the California Supreme Court on December 29, 2011, by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, pursuant to AB 26, the City Council of the City of National City adopted Resolution No. 2012-15 on January 10, 2012, electing to be the Successor Agency to the Agency (the "Successor Agency"), which is a legal entity that exists separate and independent from the City of National City; and

WHEREAS, pursuant to AB 26, the City Council of the City of National City adopted Resolution No. 2012-16 on January 10, 2012, designating the Authority as the entity responsible for performing the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency, and designating the Authority as the entity to receive the transfer of, without limitation, all of the housing assets, rights, powers, duties, obligations, liabilities and functions previously performed by the Agency and the CDC acting in its capacity as the Agency, upon the dissolution of the Agency under AB 26; and

WHEREAS, in accordance with AB 26, the Board of Directors of the Authority adopted Resolution No. 2012-01 on January 10, 2012, accepting the designation as the entity that will perform the housing functions previously performed by the Agency and the CDC acting

in its capacity as the Agency, and accepting the transfer of, without limitation, all of the housing assets, rights, powers, duties, obligations, liabilities, and functions previously performed by the Agency and the CDC acting in its capacity as the Agency, upon the dissolution of the Agency under AB 26; and

WHEREAS, the CDC adopted Resolution No. 2012-30 on January 24, 2012, ratifying and confirming the City Council of the City of National City's designation of the Authority to receive the transfer of, without limitation, all of the housing assets, rights, powers, duties, obligations, liabilities, and functions previously performed by the Agency and the CDC acting in its capacity as the Agency, upon the dissolution of the Agency under AB 26, while reserving its rights, authority and powers duly vested in the CDC; and

WHEREAS, on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the Agency were transferred by operation of law to the control of the Successor Agency, and all authority, rights, powers, duties, and obligations previously vested in the Agency were vested in the Successor Agency, for administration pursuant to Part 1.85 of ABx1 26; and

WHEREAS, California Health and Safety Code ("Code") Section 34177(g), adopted as part of ABx1 26, required the Successor Agency to effectuate the transfer of the housing functions and assets of the Successor Agency to the Authority per Code Section 34176; and

WHEREAS, Code Section 34181(c), adopted as part of AB 26 required the oversight board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to Code Section 34176; and

WHEREAS, Assembly Bill No. 1484 (Chapter 26, Statutes 2012), passed by the legislature and signed by the Governor on June 27, 2012, did not modify the Code provisions originally adopted per AB 26 and related to this Resolution except by simplifying the assets mandated for transfer by Code Section 34181(c), eliminating statutory verbiage as to the mandated transfer of responsibilities, rights, powers, duties, and obligations along with any amounts on deposit in the low and moderate income housing fund; and

WHEREAS, the Successor Agency inadvertently overlooked the requirements of Code section 34181(c), which calls for the Oversight Board to direct the Successor Agency to transfer housing assets to the appropriate entity; and

WHEREAS, in order to allow the Authority and the CDC acting in its capacity as the Authority to appropriately complete the housing projects and carry out the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency, the Oversight Board hereby finds it necessary and appropriate to effectuate the transfer of the Real Property, the Other Assets and the Obligations, all as described below, of and from the Successor Agency to the CDC acting in its capacity as the Authority at this time; and

WHEREAS, the transfer of the Real Property, the Other Assets and the Obligations of the Successor Agency to the CDC acting in its capacity as the Authority will accomplish the public purposes of allowing the Authority and the CDC acting in its capacity as the Authority to appropriately complete the housing projects and carry out the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency; and

WHEREAS, on September 11, 2012, the Department of Finance (DOF) informed the Housing Authority of the City of National City that the DOF had no objection to any assets or transfers of assets identified on the Housing Assets Transfer Form which had been submitted to the DOF by the Housing Authority of the City of National City pursuant to Code section 34176(a)(2); and

WHEREAS, on September 25, 2013 in the course of taking action on a properly agendized and noticed item at a special meeting, the Oversight Board considered the approval, ratification and direction, as to the transfer of real property rights, title and interest hereunder, to the CDC acting in its capacity as the Authority, and upon *(i)* further consideration of all information and documentation presented by staff, *(ii)* all public comment and Oversight Board deliberation, if any, and *(iii)* the recommendation of the Successor Agency's staff, did independently find and determine that this Resolution should be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION AS THE NATIONAL CITY REDEVELOPMENT AGENCY AS FOLLOWS:

1. The Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency hereby approves, ratifies and directs the transfer to the CDC acting in its capacity as the Authority of all of the Successor Agency's right, title and interest, now held or at any time hereafter acquired, in and to the Real Property and the Other Assets for use by the CDC acting in its capacity as the Authority to carry out the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency:
 - (a) The real property which is the subject of this Resolution consists of the real property located in the City of National City, County of San Diego, State of California associated with the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency, including but not limited to the real property described in the Schedule of Real Property (Attachment No. 1) (collectively, the "Real Property"); and
 - (b) The Other Assets which are the subject of this Resolution consist of the leases, promissory notes, agreements and other rights to receive payment of funds and/or other consideration associated with the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency, including but not limited to the leases, promissory notes and agreements described in the Schedule of Other Assets

(Attachment No. 2), all cash accounts, records, reports, files, furniture, fixtures, equipment, and all other tangible and intangible personal property associated with the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency (collectively, the "Other Assets").

2. The Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency hereby approves, ratifies and directs an assignment by the Successor Agency to the CDC acting in its capacity as the Authority, of the Successor Agency's rights and obligations under any and all agreements associated with the housing functions previously performed by the Agency and the CDC acting in its capacity as the Agency, including but not limited to the agreements described in the Schedule of Obligations (Attachment No. 3) (collectively, the "Obligations"). Provided however, that the Successor Agency shall not be released from any of its monetary obligations under any of the Obligations, and the Successor Agency and its successors and assigns, including voluntary successors, involuntary successors, and any person or entity deemed to be a successor by operation of law shall remain liable for all payments due and owing under the Obligations and all costs arising from or associated with the implementation of the Obligations, including the administrative costs of the Authority and the CDC acting in its capacity as the Authority in amounts that are not disproportionate to the costs of carrying out the Obligations.
3. This Resolution shall take effect immediately upon its adoption.

PASSED and ADOPTED this 25th day of September 18, 2013

--- Signature Page to Follow ---

ATTACHMENT NO. 1

SCHEDULE OF REAL PROPERTY

1. [1028 A AVE] –[APN #556 553 08 00]
REAL PROPERTY IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA
2. [SHERYL LANE- NO NUMBER] –[APN #557 430 37 00]
REAL PROPERTY IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA
3. [405 W. 18TH STREET] –[APN #559 085 08 00]
REAL PROPERTY IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA

ATTACHMENT NO. 2

SCHEDULE OF OTHER ASSETS

RESIDUAL RECEIPTS PROMISSORY NOTES

Residual Receipts Promissory Note secured by Deed of Trust to the Community Development Commission of the City of National City-CDC Acquisition and Development loan dated as of 12/18/2001 from *Plaza Manor Preservation, L.P.* in the principal amount of \$260,000.

Residual Receipts Promissory Note secured by Deed of Trust to the Community Development Commission of the City of National City-CDC Acquisition and Development loan dated as of 02/19/1999 from *Copper Hills Apartments Limited Partnership* in the principal amount of \$1,915,544.

Residual Receipts Promissory Note secured by Deed of Trust to the Community Development Commission of the City of National City-CDC Acquisition and Development loan dated as of 06/01/1999 from *Copper Hills Apartments Limited Partnership* in the principal amount of \$4,454,037.

Residual Receipts Promissory Note secured by Deed of Trust to the Community Development Commission of the City of National City-CDC Acquisition and Development loan dated as of 08/28/2008 from *Casa Familiar, Inc.* in the principal amount of \$669,653.

Residual Receipts Promissory Note secured by Deed of Trust to the Community Development Commission of the City of National City-CDC Acquisition and Development loan dated as of 11/01/2005 from *Plaza City Apartments, LP* in the principal amount of \$3,722,000.

PROMISSORY NOTES

Promissory Note to the Community Development Commission of the City of National City from *Richard Azhocar* in the principal amount of \$30,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Salvador Barajas* in the principal amount of \$2,340.00.

Promissory Note to the Community Development Commission of the City of National City from *Adriana Barcena* in the principal amount of \$7,440.00.

Promissory Note to the Community Development Commission of the City of National City from *Timothy Blake* in the principal amount of \$5,196.00.

Promissory Note to the Community Development Commission of the City of National City from *Mark Brown* in the principal amount of \$19,400.00.

Promissory Note to the Community Development Commission of the City of National City from *Daniel Ceballos* in the principal amount of \$30,500.00.

Promissory Note to the Community Development Commission of the City of National City from *Leonardo Descaller* in the principal amount of \$26,500.00.

Promissory Note to the Community Development Commission of the City of National City from *Jose Espinoza* in the principal amount of \$28,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Jose Gutierrez* in the principal amount of \$1,889.00.

Promissory Note to the Community Development Commission of the City of National City from *Miguel Hernandez* in the principal amount of \$25,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Thomas Keough* in the principal amount of \$2,770.00.

Promissory Note to the Community Development Commission of the City of National City from *Salvador Leon* in the principal amount of \$12,960.00.

Promissory Note to the Community Development Commission of the City of National City from *Dora Liera* in the principal amount of \$25,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Barbara Mellor* in the principal amount of \$18,926.00.

Promissory Note to the Community Development Commission of the City of National City from *Danielle Michael* in the principal amount of \$19,900.00.

Promissory Note to the Community Development Commission of the City of National City from *Marco Najera* in the principal amount of \$21,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Victor Ramos* in the principal amount of \$15,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Eddie Rodriguez* in the principal amount of \$1,618.00.

Promissory Note to the Community Development Commission of the City of National City from *Jesus Romero* in the principal amount of \$18,050.00.

Promissory Note to the Community Development Commission of the City of National City from *Alvaro Sanchez* in the principal amount of \$18,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Carlos Solis* in the principal amount of \$15,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Antonio Vargas* in the principal amount of \$25,000.00.

Promissory Note to the Community Development Commission of the City of National City from *Albert Wertz* in the principal amount of \$18,200.00.

ATTACHMENT NO. 3
SCHEDULE OF OBLIGATIONS

AFFORDABILITY COVENANTS

Agreement Containing Covenants between the Community Development Commission of the City of National and *Plaza Manor Preservation, L.P.* dated as of 06/19/2002.

Agreement Containing Covenants between the Community Development Commission of the City of National and *Copper Hills Apartment Limited Partnership* dated as of 12/07/1998.

Agreement Containing Covenants between the Community Development Commission of the City of National and *Casa Familiar, Inc.* dated as of 11/09/2009.

ENVIRONMENTAL INDEMNITY AGREEMENTS

Environmental Indemnity by *Casa Familiar, Inc.* in favor of the Community Development Commission of the City of National City dated as of 11/09/2009.

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The foregoing resolution was duly and regularly PASSED and ADOPTED at a regular meeting of the Oversight Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency on this 25th day of September, 2013, by the following vote:

AYES: Fellows, Carson, Desrochers, Morrison, Perri, Hentschke

NOES: None

ABSENT: Donaldson

ABSTAIN: None



Ron Morrison, Chairman

ATTEST:



Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:



Oversight Board Counsel
Edward Z. Kotkin, Esq.
Cummins & White